

1 STATE OF MINNESOTA DISTRICT COURT

2 COUNTY OF HENNEPIN FOURTH JUDICIAL DISTRICT  
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3 Charles Everett Cook, Sylvia Mae Cook,  
4 and Timothy Blake Cook, natural persons,

5 Plaintiffs,

6 v.

7 City of Minneapolis, a municipal entity; Minneapolis  
8 Police Officer Mark Johnson, Badge #003459, in his  
9 individual, personal and official capacity; Sgt. D.  
10 Smulski, in his individual, personal and official  
11 capacity; Officer K. Blackwell, in his individual,  
12 personal and official capacity; Officer Geoffrey  
13 Toscano, Badge #007257, in his individual, personal and  
14 official capacity; Officer Bevan Blauert, Badge  
15 #003459, in his individual, personal and official  
16 capacity; Officer Jon Petron, Badge #5671, in his  
17 individual, personal and official capacity; Officer  
18 Christopher House, Badge #3165, in his individual,  
19 personal and official capacity; Sgt. Robert Kroll,  
20 Badge #003874, in his individual, personal and official  
21 capacity; Officer Christie Nelson, Badge #4959, in his  
22 individual, personal and official capacity; Officer  
23 William Willner, Badge #7783, in his individual,  
24 personal and official capacity; Officer Westlund, Badge  
#7674, in his individual, personal and official  
capacity; Officer Roger Smith, Badge #006689, in his  
individual, personal and official capacity; Officer  
Jason King, Badge #003704, in his individual, personal  
and official capacity; Officer Timothy Hanks, Badge  
#002660, in his individual, personal and official  
capacity; and Officers Jane Doe and Richard Roe,  
unknown and unnamed Minneapolis Police Officers, in  
their individual, personal and official capacities;

20 Defendants.  
21 \*\*\*\*\*

22 DEPOSITION OF  
23 OFFICER TIMOTHY HANKS

24 Taken March 28, 2007  
Scheduled for 11:30 a.m.

Reported By: Lori Morrow, RPR, CRR  
25 PARADIGM REPORTING & CAPTIONING INC. (612) 339-0545

1                   Deposition of OFFICER TIMOTHY HANKS, taken on  
the  
2       28th day of March, 2007, commencing at 11:22 a.m., at  
the  
3       CITY OF MINNEAPOLIS ATTORNEY'S OFFICE, 333 South 7th  
4       Street, Suite 300, Minneapolis, Minnesota, before Lori  
5       Morrow, Registered Professional Reporter and Certified  
6       Realtime Reporter and a Notary Public in and for the  
7       State of Minnesota.

8

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APPEARANCES:

10

On Behalf of the Plaintiffs:

11

Maya C. Sullivan, Esquire  
12       LAW OFFICE OF MAYA C. SULLIVAN, L.L.C.  
941 Hillwind Road NE  
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Minneapolis, Minnesota 55432  
14       (763) 515-0092  
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15

On Behalf of the Defendants:

16

Tracey L. Nelson, Esquire  
17       CITY OF MINNEAPOLIS ATTORNEY'S OFFICE  
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Minneapolis, Minnesota 55402  
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NOTE: The original transcript will be  
delivered  
to Maya C. Sullivan, Esquire, pursuant to the  
applicable  
22       Rules of Civil Procedure.

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1 INDEX

2 WITNESS:

3 Officer Timothy Hanks

4

EXAMINATION BY: PAGE:

5

Ms. Sullivan.....4

6

7 OBJECTIONS BY:

8

Ms. Nelson.....6, 17

9

EXHIBITS MARKED AND REFERRED TO: (NONE)

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1                   OFFICER TIMOTHY HANKS,  
2   duly sworn, was examined and testified as follows:

3                   EXAMINATION

4   BY MS. SULLIVAN:

5           Q   Officer Hanks, my name is Maya Sullivan, as I  
6   said, and I'm one of the attorneys for the Plaintiffs in  
7   this matter. The other one is Albert Goins, who you may  
8   or may not know.

9           I just want to give you a few just introductory  
10  pieces of information before we get started. First of  
11  all, have you ever taken part in a deposition?

12          A   Yes.

13          Q   Okay. So you are kind of familiar with the  
14  procedure and what goes on in a deposition then?

15          A   Yes.

16          Q   Okay. Just a couple of things. I will be  
17  asking you questions. Your attorney may follow up with  
18  cross-examination. She may also object. If she does,  
19  please just follow her instructions regarding whether you  
20  should respond or answer the question.

21                I do need you to give verbal answers and not  
22  nodding or "uh-huh" and that type of a thing.

23                Do you have any questions before we get started?

24          A   No.

25 Q Okay. Officer, can you please state and spell

5

1 your name for the record?

2 A Timothy, T-I-M-O-T-H-Y, Hanks, H-A-N-K-S.

3 Q Thank you. And who is your employer?

4 A City of Minneapolis.

5 Q Okay. And what department?

6 A Police.

7 Q And how long have you been employed by the  
8 Minneapolis Police Department?

9 A Since 1993.

10 Q Okay. And during that time as an officer with  
11 the Minneapolis Police Department, have your assignments  
12 changed over the years?

13 A Yes.

14 Q Okay. And what is your current assignment?

15 A I'm assigned to the STOP unit.

16 Q Okay. And was your assignment to the STOP unit  
17 on the day of this incident, which was January 13, 2005?

18 A I don't remember.

19 Q Do you recall approximately how long you've been  
20 with the STOP unit?

21 A Since its inception. So I think it's been two  
22 years now. So I think that might have been right around  
23 that area when we were transitioning.

24 Q Okay. And by whom were you employed before the  
25 Minneapolis Police Department? Or were you a police

6

1 officer prior --

2 A Before? No.

3 Q Okay. So this was your first police position?

4 A Yes.

5 Q Okay. What field did you work in before?

6 A I was a personal trainer.

7 Q Okay. How many times prior to this case have  
8 you been named as a defendant in a lawsuit involving the  
9 police department violating someone's civil rights?

10 MS. NELSON: I'll object as irrelevant.

11 You can answer.

12 THE WITNESS: One.

13 BY MS. SULLIVAN:

14 Q Do you recall whether any internal affairs  
15 complaints have been filed against you?

16 MS. NELSON: Same objection.

17 Go ahead and answer.

18 THE WITNESS: No.

19 BY MS. SULLIVAN:

20 Q You don't recall, or there haven't been any?

21 A There haven't been any.

22 Q Okay. Have you received special training in  
23 conducting high risk entry warrants?

24 A Yes.

25 Q Okay. And in that training, do you all receive

7

1 any kind of distinct trainings regarding handling or  
2 dealing with the elderly or ill individuals who you may  
3 encounter on those warrants or on those entries?

4 A No.

5 Q You do not?

6 A No.

7 Q Okay. How do you normally handle the elderly or  
8 ill individuals when you encounter them as opposed to a  
9 perfectly healthy adult in that type of an entry?

10 A I guess it's discretionary. You know, you use  
11 your own discretion.

12 Q And what does that mean, that if you use your  
13 discretion, you may treat them less aggressively, or what  
14 does that mean?

15 A If they pose a threat, I use the necessary  
16 force. If they don't, then you don't use the necessary  
17 force.

18 Q Were you part of the team that entered 3845  
19 Second Avenue South in Minneapolis on January 13, 2005?

20 A Yes.

21 Q And what information were you provided regarding  
22 this entry during the briefing?

23 A Be more specific, would you?

24 Q What information were you given about what you  
25 were going there to do, or who were you looking for?

8

1 A The information that we had was -- or that I  
2 received was that we were looking for a robbery suspect.

3 Q Do you recall if you received a description of  
4 the individual?

5 A Other than that he was a black -- a teenage,  
6 black male.

7 Q Okay. So you did know he was a teenage, black  
8 male?

9 A Yeah.

10 Q When you entered the home, can you explain or  
11 describe what you saw or observed?

12 A When I came up to the front door, the front door  
13 was unlocked, and I opened it and announced "police  
14 search warrant" loud. There were three or four women and  
15 some children sitting in the living room. That's right  
16 inside the front door and off to the right. Everyone's  
17 hands I saw, so, I mean, they weren't -- because I think  
18 they were holding kids, so nobody was ordered to the  
19 floor for the fact that they had children in their hands.

20 Q Do you remember how many children were in the  
21 room or in the area?

22 A No.



23 Q Do you know if there was more than one child?

24 You said children, so.

25 A Yeah, there was more than one. I would say two

9

1 to three.

2 Q Okay. Were the children crying?

3 A I don't recall.

4 Q Do you recall the demeanor of the children or  
5 the women at all?

6 A The women seemed frightened, I mean, because we  
7 startled them when we came in.

8 Q Do you recall anyone asking for the search  
9 warrant or to view the search warrant?

10 A I did hear someone say that, but I couldn't tell  
11 you who it was.

12 Q Do you recall if anyone responded?

13 A No.

14 Q No, no one responded, or no, you don't recall if  
15 anybody responded?

16 A No, I don't recall.

17 Q Is a warrant normally shown if someone asks for  
18 it?

19 A Not right away, no.

20 Q But it is shown at some point?

21 A I'm not an investigator, so that is not my role.

22 Q Okay. Did you instruct them to ask one of the  
23 investigators?

24 A No.

25 Q Or did anyone instruct them to ask one of the

10

1 investigators for the warrant?

2 A I just want to clarify. I mean, I just want to  
3 be sure. Are you talking about when we're actively  
4 moving through this house --

5 Q Right. you said that you did --

6 A -- to do the search?

7 Q -- hear somebody ask for the warrant, and you  
8 said you don't recall responding or anybody else  
9 responding --

10 A No. As the team is doing -- or clearing the  
11 house, they wouldn't receive a response right away until  
12 the investigators came in and -- until the investigators  
13 who actually have the search warrant would come in.

14 Q I understand you're saying that those are the  
15 individuals who would actually show them the warrant.

16 A Right.

17 Q But I'm asking whether or not you instructed  
18 them to ask the investigators when they came into the  
19 home. So, for example, how are they to know that you  
20 wouldn't personally or you all on the SWAT team wouldn't  
21 personally have the warrant?

22           A    The question wasn't directed to me, so no, I  
23   don't know if someone responded or not.

24           Q    Okay. All right. Do you know whether or not  
25   the robbery suspect or the alleged robbery suspect was

11

1   arrested as a result of this incident?

2           A    I think he was taken into custody.

3           Q    But you're not sure?

4           A    We retrieved two males from the -- two teenage  
5   males from the second floor of the house. So I don't  
6   remember if they actually had had him in custody or not,  
7   no. My job is to secure the house.

8           Q    Okay. With regard to others who were in the  
9   household at the time of the incident, do you recall if  
10   anyone else was arrested as a result of it?

11          A    No, I don't recall.

12          Q    Do you recall the elderly -- the more elderly,  
13   or older, gentleman who was in the home at the time of  
14   the incident?

15          A    Yes.

16          Q    Okay. And at one point, the police report, the  
17   main police report indicates that he was forced to the  
18   ground. Did you assist in forcing him to the ground?

19          A    No.

20          Q    Do you know who did?

21 A It was Sergeant Kroll.

22 Q Is that the only person?

23 A Yes.

24 Q Did you notice whether or not the gentleman  
25 appeared to be ill?

12

1 A No.

2 Q No, you didn't notice?

3 A No, I didn't notice that he looked ill.

4 Q Okay. Did you notice the stint hanging out of  
5 his neck?

6 A No.

7 Q Do you recall the weather on that day?

8 A Middle of January, I think, and it was cold and  
9 wintery.

10 Q Right. But you don't know for sure the exact  
11 weather. You just know it was probably cold since it's  
12 Minnesota, and it was the middle of January?

13 A Yes.

14 Q Do you recall how long the elderly gentleman was  
15 required to remain on the floor after being put on the  
16 floor?

17 A As far as a timetable, no.

18 Q Okay. Do you recall the positioning of his body  
19 in relationship to the front door when he was placed on  
20 the ground -- or forced onto the ground? I'm sorry.

21           A    Like the distance from where he was at to the  
22   front door?

23           Q    Right.

24           A    About 15 feet.

25           Q    Fifteen feet?

13

1           A    I would say. I don't know what -- I mean, in  
2   proximity to the front door, he was actually -- I mean,  
3   he would be -- I'm trying to remember the way the house  
4   is set up. The front door is here. He was probably  
5   here. So about 10 to 15 feet maybe.

6           Q    Okay. You said the front door is here, and he's  
7   probably here. And here meaning -- is that near where  
8   the stairs begin then?

9           A    Yes.

10          Q    Okay. So you're saying you think it's about 10  
11   to 15 feet from the front door --

12          A    Yes, just --

13          Q    -- to the stairs?

14          A    -- my guesstimation.

15          Q    Okay. And you think that he was simply right  
16   there at the bottom of the stairs then?

17          A    Yeah. He was just to the stairs and -- he was  
18   probably about here. But I don't -- yeah, just at the  
19   base of the stairs and maybe to the right -- to the left

20 of the stairs if you're facing the stairway in the house.

21 Q Okay. Do you recall his wife or him asking for  
22 a blanket or something to cover him up with as he lie on  
23 the ground?

24 A No.

25 Q Okay. If you had heard that, would you have

14

1 attempted to assist him with that?

2 A If I would have heard that, yes.

3 Q Do you normally assist if you see someone is ill  
4 or sick or elderly in this type of a situation if they  
5 ask or inquire about a blanket or something to that  
6 degree?

7 A Yes.

8 Q And I just want to clarify something. Earlier,  
9 you said that you don't recall whether or not anybody was  
10 arrested as a result of this incident. Is that correct?

11 A We had -- we -- once we secure the residence and  
12 everyone is taken into custody, we leave. Whatever the  
13 investigators do after that, I mean, we might find out  
14 later, you know. And so I don't recall. I just --  
15 there's a lot of incidents I don't know if people are  
16 taken into custody.

17 Q Okay. So you just don't know?

18 A Yeah.

19 Q All right. Can you give me an idea of once you

20 walked into the home, once you entered into the home --  
21 first of all, it sounded like you were saying you were  
22 first because you said you opened the door and walked in.  
23 Is that correct, or is that accurate?

24 A Yes.

25 Q Okay. So you were the first one to actually

15

1 walk into the home. And at that time, is that when you  
2 yelled or began to say "search warrant" or "police," that  
3 type of thing?

4 A As soon as the door is breached or as soon as  
5 the door was opened, yes.

6 Q And were other officers saying that at the same  
7 time as you, or was it just you?

8 A It was a number of us. We all say that.

9 Q Okay. Did you go to the second level to secure  
10 the robbery suspect, or was that other officers who --

11 A I was on the second level. I went to the second  
12 level.

13 Q Along with?

14 A Sergeant Kroll, and I don't remember who the  
15 third person was.

16 Q If you enter a home, particularly on a high risk  
17 entry situation, and you perceive someone or persons to  
18 be a threat, what procedure do you use, or what do you

19 do?

20 A What type of threat, though? You have to be --

21 Q A harmful threat.

22 A -- more specific.

23 Q A threat of harm to you or any of your officers  
24 who are with you.

25 A You will be ordered to the ground at gunpoint.

16

1 Q I'm sorry?

2 A You will be ordered to the ground at gunpoint.

3 Q Is that the only time you order people to the  
4 ground at gunpoint?

5 A It is procedure to put everybody down on the  
6 floor at gunpoint when entering on a high risk warrant.

7 Q Okay. I just want to clarify then, because I  
8 asked you if you perceive a threat, what do you do, and  
9 you said that you order them to the ground at gunpoint.  
10 But then you said on a high risk warrant you put  
11 everybody down. So that sounds like regardless of  
12 whether you perceive a threat or not, you're putting them  
13 down to the ground at gunpoint.

14 A With the exception if you have women with kids,  
15 as long as you can see hands, they're not perceived as  
16 threats, I mean, obviously. But as far as a true threat,  
17 whichever that may be, I mean, I guess that would be a  
18 person who is not showing their hands or a person with a



19 weapon in their hand, something along that line, then you  
20 will be ordered to the ground, and then if you don't  
21 comply with that, you'll be forced to the ground.

22 Q Okay. And at what point do you decide to cuff  
23 any of the individuals who may be present at this type of  
24 entry?

25 A Once we have that area secured. So once all the

17

1 threats are checked out or whatnot, then people will be  
2 handcuffed.

3 Q And at that point, do you generally cuff the  
4 women and children, or do you only cuff the males or  
5 others who may not be holding children?

6 A It changes every time. It's a lot of  
7 discretion. I have seen some women that have kids be  
8 cuffed in the front and just given their child back, and  
9 I've seen where teams -- where some of us, they don't  
10 cuff them at all. I don't usually cuff people, so it's  
11 the discretion of the person who was assigned to doing  
12 that.

13 Q Okay. You said that you may or may not cuff the  
14 women. I'm just trying to get an understanding. You  
15 said you don't personally, but, I mean, the officer there  
16 may or may not cuff the women who are holding children.  
17 If they do not cuff them, is that because they may feel

18 that that person is complying with the orders that they  
19 have been given?

20 MS. NELSON: Objection, calls for  
21 speculation.

22 You can answer.

23 THE WITNESS: Can you repeat the question?

24 BY MS. SULLIVAN:

25 Q Sure. If the women who are present are not

18

1 cuffed -- let me back up. I'm sorry. You initially said  
2 that usually you don't cuff women, or, if you don't, it's  
3 because you can see their hands if they're holding  
4 children. But then you said that you may cuff them or  
5 other officers may cuff them and then give the child back  
6 and cuff them in the front. And so I'm just trying to  
7 understand that if you do not cuff them, or if they are  
8 not cuffed, does that mean that they are not being  
9 perceived as a threat?

10 A They're being compliant or -- yeah, they're  
11 usually being compliant. So they're not perceived as a  
12 threat.

13 Q Okay. Do you normally cuff children?

14 A No.

15 Q Do children usually get gun checked?

16 A Get who?

17 Q Gun checked, the gun put into their face?

18 A No.

19 Q Do you recall that happening in this incident?

20 A No.

21 Q You don't recall it happening, or it didn't  
22 happen?

23 A I don't recall it happening.

24 Q So if it did happen, then that would be out of  
25 the ordinary then for the procedure when doing these type

19

1 of entries?

2 A Yeah, to point a gun at a kid.

3 Q Yes.

4 A Yes.

5 Q Okay. Did you enter the lower level of the home  
6 while you were on the entry?

7 A The basement?

8 Q Uh-huh.

9 A I don't recall. We usually -- procedure, we  
10 usually do clear the basement. So more than likely, I  
11 went down there. But I don't recall if I did or not.

12 Q Do you recall encountering -- well, strike that.  
13 I'm sorry. How many males do you recall being in the  
14 home?

15 A A total of four.

16 Q Okay. And earlier you indicated that two

17 younger males were upstairs when you went upstairs,  
18 correct?

19 A Yes.

20 Q And you already talked about the elderly  
21 gentleman who was forced to the ground. So that leaves  
22 one additional male. Where did he come from?

23 A He came from the second floor with the elderly  
24 male.

25 Q He came from the second floor?

20

1 A The elderly male and the other guy actually came  
2 downstairs as I was coming through the kitchen.

3 Q Okay. I'm sorry. Let me just clarify. You're  
4 saying the elderly male came from upstairs?

5 A Right.

6 Q I was actually asking about the fourth male.  
7 Where did he come from?

8 A The fourth male was with him, and they came down  
9 the stairs together.

10 Q Can you describe the fourth male?

11 A He was a larger black male. I didn't have any  
12 contact with him.

13 Q Do you recall whether that male was cuffed at  
14 all?

15 A I'm sure he was once we had that -- once the  
16 main floor was secured, he was cuffed.

17 Q Okay. Do you recall if he was forced to the  
18 ground at all?

19 A He was ordered to the ground.

20 Q So he was on the ground as well as the elderly  
21 gentleman?

22 A Yes.

23 Q Okay. And he was also cuffed?

24 A Who?

25 Q The younger of the two.

21

1 A Yeah, I just stated that.

2 Q The fourth one?

3 A Yes.

4 Q Well, you said he was probably cuffed when you  
5 secured the area.

6 A Yeah. I mean, once the area was secured, I'm  
7 sure he was cuffed.

8 Q Do you recall any conversation going on between  
9 him and any of the officers that took place while you  
10 were there?

11 A I know that he -- there was conversation between  
12 him and other officers. What he was saying I don't know.

13 Q Was it a loud conversation?

14 A Yes. He was very loud.

15 Q Well, I'm asking about the conversation. So

16 that also means were the officers loud?

17 A Not as loud as he would have been, no. I mean,  
18 they weren't upset at him, but he was very upset.

19 Q Did you physically touch any of the individuals  
20 who were in the home during the incident?

21 A No.

22 Q Did anybody?

23 A I can't attest to what other officers did, so I  
24 don't know.

25 Q Okay. So you did not observe any of the

22

1 officers -- you can't say for sure whether any of them  
2 physically touched any of the individuals in the home?

3 A Well, I mean, Sergeant Kroll, there was contact  
4 between Sergeant Kroll and the elderly guy. And outside  
5 of that, no, I don't think so.

6 Q Okay. Have you been on any other previous high  
7 risk entries with Sergeant Kroll in the past?

8 A Yes, I have.

9 Q Do you have an approximate number of how many of  
10 those you've done with him? Just a guess. It doesn't  
11 have to be exact.

12 A No. I've been doing this for over 10 years, and  
13 I've done close to a thousand of them, so, no, not an  
14 exact number.

15 Q Do you know whether or not you've done like half

16 of them with him or maybe a quarter of them with him or  
17 10 percent, just generally?

18 A In general, no. I honestly cannot give you a  
19 general number. A general number, because I did one  
20 service with him one month, a general number would  
21 probably be 35 to 40.

22 Q Okay. So it depends on, it sounds like you guys  
23 have different types of assignments on a monthly basis,  
24 and so that you might end up working with him or some  
25 other officers or sergeants doing this type of --

23

1 A Yeah. Each team rotates monthly, so a team  
2 would rotate on as a primary team to do warrants, and  
3 then they have a sergeant. And so it changes every 28  
4 days.

5 MS. SULLIVAN: Okay. I don't have any  
6 other questions.

7 MS. NELSON: I don't have any questions.  
8 We'll read and sign. Thank you.

9

10 (Deposition concluded at 11:44 a.m.)

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1 REPORTER'S CERTIFICATE

2

3 STATE OF MINNESOTA)  
4 ) ss.  
COUNTY OF HENNEPIN)

5 I hereby certify that I reported the deposition  
of OFFICER TIMOTHY HANKS, on the 28th day of March,  
2007,  
me  
6 in Minneapolis, Minnesota, and that the witness was by  
first duly sworn to tell the whole truth;

7  
a That the testimony was transcribed by me and is  
8 true record of the testimony of the witness;

9 That the cost of the original has been charged  
to  
10 the party who noticed the deposition, and that all  
parties who ordered copies have been charged at the  
same  
rate for such copies;

11

That I am not a relative or employee or



attorney

12 or counsel of any of the parties, or a relative or  
employee of such attorney or counsel;

13

14 That I am not financially interested in the  
action and have no contract with the parties,  
attorneys,  
or persons with an interest in the action that affects  
or

15 has a substantial tendency to affect my impartiality;

16 That the right to read and sign the deposition  
by the witness was reserved.

17

March, WITNESS MY HAND AND SEAL, this 31st day of  
18 2007.

19

20 \_\_\_\_\_  
Lori L. Morrow, RPR, CRR  
Notary Public, Hennepin County, Minnesota  
21 My commission expires: January 31, 2010

22

23

24

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